

Sixth Appellate District

San Jose, California

MONDAY, MARCH 6, 2006

H028567 PEOPLE v. MORENO

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Rushing, P.J., Premo, J.)
Filed March 6, 2006

H028000 PEOPLE v. MARTINEZ

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Mihara, J., McAdams, J.)
Filed March 6, 2006

H028596 PEOPLE v. ECSTACY L.

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Elia, J., Mihara, J.)
Filed March 6, 2006

H028605 KILGORE on Habeas Corpus

The judgment of the trial court granting Kilgore's petition
for writ of habeas corpus is reversed. (not published)
(Rushing, P.J.; We concur: Premo, J., Duffy, J.)
Filed March 6, 2006

H029117 In re W.B., et al.; DFCS v. G.B.

The order is reversed and remanded for the sole purpose of
perfecting the record to include the declaration filed by the
mother in the federal action. The juvenile court may then enter a
new order on the petition based on a complete factual record.
(not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy,
J.)
Filed March 6, 2006

Sixth Appellate District

San Jose, California

TUESDAY, MARCH 7, 2006

H029686 EMERDINGER v. TENG, et al.

By the Court:

Appellant's motion to vacate the order of dismissal for failure to procure the record on appeal in the above entitled cause is granted provided appellant deposits with the clerk of the Superior Court the approximate cost of transcribing the proceedings he designates in accordance with the requirements of California Rules of Court, rule 4(b), within 10 days from the date of this order. Upon receipt and posting of the required fees and/or deposit, the trial court shall proceed with the preparation of the record on appeal in accordance with the pertinent provisions of the California Rules of Court.

The above entitled appeal is hereby restored to active status.

Dated: March 7, 2006

Rushing, P.J.

H029039 PEOPLE v. JOSE S.

The judgment is reversed insofar as it (1) sustained the allegation that the minor had violated section 148(a)(1), and (2) sustained the allegation in the supplemental petition as to the first enumerated probation violation (i.e., that "[t]he minor failed to obey all laws"). The matter is remanded for a new dispositional hearing consistent with this opinion. (not published)

(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed March 7, 2006

H028061 KAISER FOUNDATION HEALTH PLAN, INC. et al. v. AYON-ALEXANDRE, et al.

The judgment is affirmed. (not published)

(Elia, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed March 7, 2006

H028821 PEOPLE v. LE

(Filed order modifying opinion.) This modification does not effect a change in the judgment. (published)

(Bamattre-Manoukian, J.; Premo, Acting P.J.; Duffy, J.)

Filed March 7, 2006

H028821 PEOPLE v. LE

By the Court*:

Respondent's petition for rehearing is denied.

Filed: March 7, 2006

*Before Premo, Acting P.J., Bamattre-Manoukian, J. and Duffy, J.

Sixth Appellate District

San Jose, California

Tuesday, March 7, 2006 (continued)

H027474 PEOPLE v. CARRISALES

By the Court*:

Appellant's petition for rehearing is denied.

Filed: March 7, 2006

*Before Elia, Acting P.J., Bamattre-Manoukian, J. and Duffy, J.

The following case is submitted this date:

H029121 In re JUSTIN S., et al.; D.F.C.S. v. SHEIKA L.

WEDNESDAY, MARCH 8, 2006

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J. and Beth Miller, Deputy Clerk.

H029609 THE PEOPLE v. BIVENS, et al.

Cause called for an order to show cause hearing against Dawn Timberlake, C.S.R. The court discusses the overdue transcript with reporter Timberlake. The matter is continued to March 15, 2006, at 9:30 a.m. The court is adjourned.

H029133 PEOPLE v. VINDIOLA

The judgment is affirmed. (not published)

(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed March 8, 2006

H028566 MARRIAGE OF ARNOLD-LAZAR AND GROS DE MANGE

The order is affirmed. (not published)

(Duffy, J.; We concur: Elia, Acting P.J., Bamattre-Manoukian, J.)

Filed March 8, 2006

H028708 PEOPLE v. ROMERO

The judgment and sentence are affirmed. The abstract of judgment is modified to reflect that the restitution fund fine imposed under section 1202.4 is \$4,700 instead of \$4,800. (not published)

(Duffy, J.; I concur: Bamattre-Manoukian, Acting P.J.; Dissenting opinion by McAdams, J.)

Filed March 8, 2006

Sixth Appellate District

San Jose, California

THURSDAY, MARCH 9, 2006

H028311 PEOPLE v. ROTROFF

The December 3, 2004 order of commitment is affirmed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)
Filed March 9, 2006

H028582 PEOPLE v. ROTROFF

The March 11, 2005 order of commitment is affirmed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)
Filed March 9, 2006

H028843 PEOPLE v. YORK

The judgment is reversed solely with respect to the erroneous calculation of credits. The trial court is directed to recalculate defendant's custody credits under Penal Code section 4019 and to prepare an amended abstract of judgment reflecting the amended credits. In all other respects the judgment is affirmed.

(Rushing, P.J.; We concur: Mihara, J., McAdams, J.)
Filed March 9, 2006

H028074 LIN et al. v. SHAO

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Mihara, J., McAdams, J.)
Filed March 9, 2006

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Duffy, J.; and J. Michel, Deputy Clerk.

H027860 LOS ALTOS EL GRANADA INVESTORS v. CITY OF CAPITOLA, et al.

Cause called and argued by Mark D. Alpert appearing for Appellant and by Henry Heater appearing for Respondents. Cause ordered submitted.

Premo, J. and Duffy, J. leave the bench and Elia, J. and Mihara, J. take the bench.

H028721 PEOPLE v. FRANCISCO V.

Cause called and argued by Cabot Spencer Davis appearing for Appellant and by Ronald Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, March 9, 2006 (continued)

H028531 FREEMAN, et al., v. LAURITZEN

Cause called and argued by Robert M. Lubin appearing for Appellants and by Michelle K. Trausch appearing for Respondent. Cause ordered submitted.

Rushing, P.J. leaves the bench and Premo, Acting P.J. takes the bench.

H028805 AMERICA'S FUNDING SOURCE, INC. v. CAGNO

Cause called and argued by Raymond A. Cardozo appearing for Appellant and by John Kevin Crowley appearing for Respondent. Cause ordered submitted.

Premo, Acting P.J. and Mihara, J. leave the bench and Manoukian, J. and Duffy, J. take the bench.

H028699 MATRIXX INITIATIVES, INC. v. DICK, et al.

Cause called and argued by Robert E. Schaberg appearing for Appellants and by Richard A. Derevan appearing for Respondent. Cause ordered submitted.

Elia, Acting P.J. and Bamattre-Manoukian, J. leave the bench and Mihara, Acting P.J. takes the bench. Counsel in the following matter have stipulated that McAdams, J. may listen to the tape of oral argument proceedings in lieu of his presence on the bench.

H029174 In re LAURA L.; MONTEREY COUNTY DSS v. NANCY W.

Cause called and argued by Catherine F. Campbell appearing for Appellant and by William K. Rentz, Deputy County Counsel, appearing for Respondent. The matter will be submitted after McAdams, J. listens to the tape of oral argument proceedings. Court adjourns.

H026042 PEOPLE v. LEON

(Filed order modifying opinion.) There is no change in judgment. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed March 9, 2006

H029148 PEOPLE v. LAMOREAUX

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed March 9, 2006

Sixth Appellate District

San Jose, California

Thursday, March 9, 2006 (continued)

H029831 MARRIAGE OF ZIBA ENTEZARI AND SHAHROKH HERAVI

By the Court:

Appellant having submitted to the court a filed-endorsed stamped copy of the Civil Case Information Statement filed February 27, 2006, the dismissal order filed on March 8, 2006, for failure to file the Civil Case Information Statement pursuant to rule 1(f)(2), California Rules of Court, is vacated and set aside.

The appeal is ordered restored to active status.

Dated: March 9, 2006

Rushing, P.J.

H027293 PEOPLE v. FORDJOUR

(Filed order modifying opinion- change in the judgment.) The judgment is reversed and the matter is remanded with the following directions: (1) The court shall hold a hearing on defendant's *Marsden* motion concerning Attorney Owens. (2) If defendant makes a prima facie showing of ineffective assistance of counsel in connection with defendant's motion to withdraw his plea, or other matter entrusted to Ms. Owens, the court shall appoint new counsel to assist him for this purpose and shall entertain such applications as newly appointed counsel may make. (3) If defendant fails to make the requisite showing of ineffective assistance, the court shall deny the *Marsden* motion and consider defendant's request under *Faretta* to represent himself in connection with the motion to withdraw his plea. (4) If that request is well taken, the court shall grant it and permit defendant to present his motion to withdraw his plea, which the court shall entertain on the merits. (5) If both the *Marsden* motion and the *Faretta* request are denied, or if either is granted but grounds are not shown for withdrawal of defendant's plea, the court shall reinstate the judgment. (6) If grounds to withdraw the plea are shown, the court shall grant that motion and proceed accordingly.

This modification changes the judgment. Appellant's petition for rehearing is denied. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed March 9, 2006

H028604 CHOU CHIN INDUSTRIAL CO., LTD., et al. v. WAVEPLUS TECHNOLOGY CO., LTD., et al.

The order quashing service is affirmed.

(Rushing, P.J.; We concur: Mihara, J., McAdams, J.)

Sixth Appellate District

San Jose, California

FRIDAY, MARCH 10, 2006

H027955 PEOPLE v. HERNANDEZ

By the Court:

On the court's own motion, the submission order in this matter dated February 8, 2006, is hereby vacated to allow transfer to this court Trial Exhibits 8, 8B, 9, and 10. The matter will be resubmitted upon receipt of these exhibits.

Dated: March 10, 2006

Rushing, P.J.

The following cases are submitted this date:

H028773 PEOPLE v. MOHAMUD

H028395 PEOPLE v. BUI

H028310 WAKEFIELD v. BOHLIN, et al.

By the Court*:

Respondents' petition for rehearing is granted.

Filed: March 10, 2006

*Before Elia, Acting P.J., Mihara, J. and McAdams, J.

H028246 In re NEEDLES CASES

The judgments are reversed. Plaintiffs are entitled to their costs on appeal. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed March 10, 2006

H027943 ESTATE OF KURT STEINER, DECEASED.

The order is reversed. Each party to bear his or her own costs.

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed March 10, 2006